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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/701,402 | 03/19/2001 | William Frederick Schacht | 4635/234 | 9927 |

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60611

EXAMINER

ANDERSON, GERALD A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3637

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant N .

09/701,402

Applicant(s)

SCHACHT ET AL.

Examiner

JERRY A ANDERSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 7, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required to reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 11
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

The applicant's representative, Mr. J. Freeman, has responded to the Office Action mailed 29 January 2003 by telephone interview, on 21 April 2003, with the Examiner. The Office Action mailed 29 January 2003 has been withdrawn in favor of the following Office Action.

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-21 is acknowledged. Claims 22-101 have been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The stanchion is claimed as having surfaces that are "attached" one to another in claim 3. This is not what is described on page 11 and shown in Figures 5-11. The walls of the stanchion are described as "integrally attached" to each other. First, it is not clear what the phrase "integrally attached" means. Second, if parts are attached they must be separable. The Figures show a stanchion with integral inner, outer and rear walls. The inner wall 116 and the outer wall 118 are identified in the disclosure but not in Figures 5-11. It is

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possible that the front wall 112 has been attached to the integral walls but the attachment means is not described and it is not shown as a separate part. The "top stanchion surface" 124 appears, in Figure 5, to be an upper edge of a side wall and the Examiner suspects this is true of the "bottom stanchion surface" 126 as well. An edge is not a surface, particularly not in the context of a claim defining the other walls of a stanchion as surfaces.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is objected to under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 defines one or more of said m number of hooks inserted into corresponding ones of said n number of slots. Where is it disclosed that less than the m number of hooks are inserted into a similar m number of holes? It should also be clearly stated that n is greater than m.

Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollenkopf and further in view of Behrendt, Canfield et al and the ordinary skill of one versed in the art. Mollenkopf is cited showing a desk 10 with a worksurface 20 supported by cantilever members 18 attached to stanchions 12 in a suitable manner, the stanchions having openings 22 and covers 49 and having brackets 40 attached to the stanchions. Mollenkopf fails to show an adjustable worksurface, J-shaped brackets or trapezoidal stanchions. However, Mollenkopf cites Canfield et al (5,544,593) as disclosing the superstructure of the uprights/stanchions 12. Canfield shows uprights having slots 42 and brackets having hooks 49 supporting the worksurface and a trough/bracket that is more or less J-shaped attached to the uprights/stanchions and a panel by brackets 155. Generally the shape of an element is considered an obvious matter of design choice. Here the shape of the stanchions, the approximate angle of intersection of surfaces, and the brackets are considered to be an obvious modification of the shape of elements within the ability of one having an ordinary skill in the art. Behrendt is cited to show that it is well known to use the trapezoidal shape for a stanchion. Since the references are from the same field of endeavor the purpose of

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Behrendt and Canfield et al would have been obvious in the pertinent art of Mollenkopf at the time of the invention and it would have been obvious for one having an ordinary skill in the art to have modified Mollenkopf with stanchions having a trapezoidal shape in view of Behrendt, and with brackets having a J-shape for supporting wires and with slots in the stanchion and hooks in the bracket to adjustable support the worksurface relative to the stanchions in view of Canfield et al and as an obvious matter of design choice within the ability of one versed in the art. Official Notice is taken of the approximately 93.5 degree angle of claims 6 and 7. The shape of an element is an obvious matter of design choice for one versed in the art. The angle of intersection of two sides of a stantion is therefore not a patentable distinction in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 24668. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 3597 for regular communications and 703 306 4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa
May 1, 2003



GERALD A. ANDERSON
PATENT EXAMINER